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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/189,615	11/09/1998	NIELS GEBAUER	33012/246	5678

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EXAMINER

ROBINSON, GRETA LEE

ART UNIT	PAPER NUMBER
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2177

DATE MAILED: 04/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/189,615

Applicant(s)

GEBAUER, NIELS

Examiner

Greta L. Robinson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-22 are pending in the present application.

Drawings

2. The drawings changes were received on April 2, 2001. These red line drawing changes are approved.
3. New corrected drawings are required in this application for the following reasons:
(a) replacement sheets are needed in response to the red line drawing changes; and (b) the drawing objections cited by the Draftsperson on form PTO 948 mailed December 28, 2000. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 2-5 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "said data base manager" [note: claim 2 line 2; also claim 5 line 2]. There is insufficient antecedent basis for this limitation in the claim.

Claims 3-4 are rejected based on dependency.

Regarding claim 13 the following limitation is vague: "adding an appropriate variable to said unavailability message [note claim 13].

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-12 and 14-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cool ICE User's Guide release 1.0.

Regarding claim 1, a data processing environment having a user terminal which is generates a service request coupled to a publicly accessible digital communications network and having a data base management system which received and responds to said service request when available, the improvement comprising:

a server coupled to said terminal via said publically accessible digital communications network and coupled to said data base management system wherein said server includes an administration management system [note: figure 1-1 Cool ICE environment; page 1-4 designing web services; figures 1-2 and 1-4; page 1-8 through 1-10, page 1-15].

Although Cool ICE teaches the invention substantially as cited above, it does not teach transferring an unavailability message to said user terminal in response to said service request when said data base management system is unavailable to receive and respond to said service request. Madan et al. teaches this feature. Madan et al. teaches that when the kernel receives a request for access to a particular data it checks to see if it is available, it frames a message and sends a request, after performing the transaction it returns the status of the transaction to the client application [note: abstract and introduction page 435; note objectives, section B and C page 436; section D message framework page 438; and figure 5 note message status parameter]. It would have been obvious to one of ordinary skill at the time of the invention to have combined Madan et al with Cool ICE User's Guide because Madan et al is concerned with extending the construct of proprietary database systems into open systems that can handle divers tasks. Madan et al teaches all communication is through a set of predefined messages and that a status message is an important message that can be implemented with a high level language for communication [page 438].

8. Regarding claims 2-5: a repository for storing said unavailability message [note Madan et al., figure 5].

9. The limitations of claims 6-22 parallel that of claims 1-5 therefore they are rejected under the same rationale.

Response to Arguments

10. Applicant's arguments, see page 2-4, filed February 9, 2004, with respect to the rejection(s) of claim(s) 1-22 under 35 USC 102(b) and 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of Madan et al., note rejection supra. Also, in response to Applicant's argument that Cool ICE User's Guide Release 1.0 can not anticipate claims 1-22 because of declarations filed under 37 CFR 1.132 and 37 CFR 1.131 Applicant is correct; but an obviousness-type rejection can be made under 35 USC 103(a). Note the declaration filed under 37 CFR 1.132 was directed toward limitation in a secondary reference Classic MAPPER User's Guide.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jagannathan et al. Application Message Interface

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (703) 308-7565. The examiner can normally be reached on Mon.-Fri. 9:30AM-6:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on (703) 305-9790. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



GRETA ROBINSON
PRIMARY EXAMINER

Greta Robinson
Primary Examiner
April 8, 2004